

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chancellor of the District of Columbia Public Schools, pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172), and Mayor's Order 2007-186 (August 10, 2007), hereby gives notice of the adoption of the following emergency rule. This emergency rule will amend Title 5, Section 2701.3 (p) of the *D.C. Municipal Regulations* (DCMR) to establish a ceiling on the number of seasons a student may participate in any one sport. All other eligibility requirements in subsection 2701.3 remain the same.

This emergency is necessitated by the need to ensure preservation of the public welfare in general and by the change affected in the District of Columbia Public Schools (DCPS) Master Education Plan which moved all ninth (9th) grade students from middle school to high school in the 2007-2008 school year, and to clarify an earlier version of the rule.

This emergency rule was adopted on August 4, 2008 and became effective immediately. This emergency rule will remain in effect for up to one hundred twenty (120) days, unless earlier superseded by a notice of final rulemaking.

The proposed rule will be submitted to the Council for a forty-five (45) day period of review. The Chancellor also hereby gives notice of the intent to adopt this rule, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register* or upon approval of the rule by the Council whichever occurs later.

Paragraph (p) of subsection 2701.3 of Title 5 of the DCMR is amended to read as follows:

- 2701.3 (p) Students may participate in regular season, playoff or championship interscholastic athletic contests for a maximum of:
- (i) four (4) semesters [two (2) seasons] in grades four (4) through five (5);
 - (ii) six (6) semesters [three (3) seasons] in grades six (6) through eight (8); and
 - (iii) eight (8) semesters [four (4) seasons] in grades nine (9) through twelve (12), except that, for any student who participated in interscholastic athletic contests in a ninth (9th) grade situated in a District of Columbia middle school or junior high school prior to 2008 and who subsequently repeated ninth (9th) grade in a

District of Columbia high school, the student's participation in interscholastic athletics in the middle school or junior high school shall not be counted in computing eligibility.

- (iv) Semester [season] computations shall begin from the semester in which the student was enrolled for the first time in grades four (4), six (6), and nine (9) respectively, and shall be counted continuously thereafter, regardless of whether he/she remains continuously enrolled in school.

Comments on this rule should be submitted, in writing, to Michelle Rhee, Chancellor, DCPS, at 825 North Capitol Street, NE, 9th Floor, Washington, DC, 20002, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Human Services (“DHS” or “Department”), pursuant to the authority set forth in section 31 of the Homeless Services Reform Act of 2005 (“HSRA” or “Act”), effective October 22, 2005, D.C. Law 16-35, D.C. Official Code § 4-756.02 (2006 Supp.), and Mayor’s Order 2006-20, dated February 13, 2006, hereby gives notice of the adoption, on an emergency basis, of a new Chapter 25 of Title 29 of the District of Columbia Municipal Regulations, entitled “Shelter and Supportive Housing for Individuals and Families”. The purpose of the new chapter is to set out the rules governing implementation of the new Permanent Supportive Housing program created to target the most vulnerable individuals and families, living either on the street or in a shelter, using a Housing First model. In addition, this rulemaking clarifies how the HSRA transfer mechanism provides for the transfer of individuals between low barrier shelters.

This emergency action is necessary for the immediate preservation of the health, safety and welfare of homeless District of Columbia residents based on the need to house more than 400 of the District’s most vulnerable individuals and families through the new Permanent Supportive Housing program before the onset of severe weather. In addition, it is necessary for the immediate preservation of the health, safety and welfare of homeless District residents that the Department clarifies the process for transferring individuals between low barrier shelters. Administrative Hearing decisions have erroneously deprived low barrier shelter residents and providers of the opportunity to participate in the most fundamental aspect of the HSRA. Under the HSRA, the District is required “to respond to the changing needs of individuals and families by ensuring that transfer between and among services within the Continuum of Care is fluid and allows clients to modify the intensity of services they receive to meet their needs, preferences, and changing circumstances.” Without this clarification, more than two-thirds of all shelter clients are deprived of the benefits of the HSRA’s primary operating principle.

This emergency rulemaking was adopted on August 7, 2008 and became effective immediately on that date. The emergency rulemaking will expire on December 5, 2008, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director also gives notice of his intent to seek public comment on the proposed rules during a comment period of not less than forty-five (45) days from the date of publication of this notice in the *D.C. Register*. The Director gives further notice of his intent to republish these proposed rules as part of a comprehensive rulemaking to implement the HSRA later this fall, prior to seeking Final Rulemaking.

Chapter 25 of Title 29 DCMR, Public Welfare, is amended to read as follows:

**CHAPTER 25. SHELTER AND SUPPORTIVE HOUSING FOR INDIVIDUALS
AND FAMILIES**

2500 SCOPE

2500.1 The provisions of this chapter shall apply to:

- (a) Shelter and supportive housing programs offered by the District of Columbia or by a provider receiving funding for the program from either the District of Columbia or the federal government, if such funds are administered, whether by grant, contract, or other means, by the Department of Human Services or its designee; and
- (b) Client of programs covered under paragraph (a) of this subsection.
- (c) In multi-program agencies, the provisions of this subchapter shall only apply to those programs that meet the criteria in paragraph (a) of this subsection and clients of those programs.

2500.2 Nothing in these rules shall be construed to create an entitlement (either direct or implied) on the part of any individual or family to any services within the Continuum of Care, other than shelter in severe weather conditions as authorized by section 9(5) of the Homeless Services Reform Act of 2005 (Act), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-754.11(5)).

**2501 GENERAL ELIGIBILITY CRITERIA FOR SHELTER AND
SUPPORTIVE HOUSING**

2501.1 An applicant, whether an individual or family, shall be eligible to receive shelter and supportive housing services if the applicant:

- (a) Is homeless or at imminent risk of becoming homeless because the applicant:
 - (1) Lacks a fixed, regular residence that provides safe housing, and lacks the financial means to acquire such a residence immediately;
 - (2) Has a primary nighttime residence that is:
 - (A) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or

- (B) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or
 - (3) Is likely, because of the applicant's circumstances, to become homeless in the absence of prompt government intervention; and
 - (b) Is a resident of the District of Columbia as defined by section 503 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.03);
 - (c) Meets any special eligibility requirements established by the provider, as long as such eligibility requirements are approved by the Department as part of the provider's programs rules pursuant to D.C. Official Code § 4-754.32(b); and
 - (d) Meets any additional eligibility requirements established by any federal funding source, if the program's receipt of such funds requires compliance with such eligibility requirements.
- 2501.3 No applicant may be deemed ineligible for services solely because the applicant cannot establish proof of homelessness or residency at the time of their application for assistance.
- 2501 THE DEPARTMENT'S PERMANENT SUPPORTIVE HOUSING INITIATIVE – PURPOSE AND SCOPE**
- 2501.1 The purpose of the Department's Permanent Supportive Housing Program ("PSH Program") is to provide a compassionate and cost effective strategy to solve homelessness for the hardest to serve and most vulnerable individuals and families, living either on the street or in a shelter, using a Housing First model.
- 2501.2 The PSH Program consists of an assessment of vulnerability, unit identification assistance, housing subsidy, participant housing cost contribution, needs assessment, and case management.
- 2501.3 The PSH Program shall be subject to annual appropriations and the availability of funds.
- 2501.4 Nothing in these rules shall be construed to create an entitlement either direct or implied on the part of any individual or family to the PSH Program.

2502 PSH PROGRAM – ELIGIBILITY AND REFERRAL

- 2502.1 In addition to the general eligibility requirements set forth in subsection 2501.1, the person, whether an individual or family, shall:
- (a) Have been homeless:
 - (1) For one year or more; or
 - (2) On multiple occasions interrupted by stays in other temporary settings such as a hospital, jail, or prison; and
 - (c) Have one or more chronic health conditions that are at least episodically disabling including mental illness, substance use, cirrhosis, end stage renal disease, or cold weather injuries; or
 - (d) Have one or more other substantial barriers to housing stability, such as domestic violence, trauma, or a history of out-of-home placements.
- 2502.2 The PSH Program, through the Department or its designee, shall conduct, on an ongoing basis, assessments designed to measure the vulnerability of homeless persons living on the street and in shelters. Any person living in a shelter or on the street may ask to take a vulnerability assessment by inquiring of a PSH Program staff person. All shelters shall have an information sheet to provide interested persons with how to contact the PSH Program. Persons may also be identified by any service provider, the PSH Program, a Department employee, outreach worker, or others, and asked if the PSH Program may conduct a vulnerability assessment of the individual or family.
- 2502.3 Referral for available placements in the PSH Program shall be prioritized based on an individual's or family's score on a vulnerability assessment administered by the PSH Program. The highest score shall receive the next available referral. Information provided by the subject of a vulnerability assessment may be subject to verification by the PSH Program.
- 2502.4 In addition to the criteria set forth in subsection 2502.3, placements may be further prioritized based on:
- (a) Length of homelessness;
 - (b) The chronological order of an individual's or family's vulnerability assessment;

- (c) Availability of appropriate sized units based on household size;
- (d) Availability of funding for particular housing subsidy programs for which an individual or family may be eligible; and
- (e) Availability of funding for the PSH Program.

2502.5 In addition to a vulnerability assessment, an individual or family shall be required to complete an application on a form prescribed by the Department prior to placement in the PSH Program; except that if the PSH Program is unable to obtain certain information from a person referred for placement, the PSH Program shall have the discretion to make the placement with the available information, and endeavor to complete the application post-placement to the extent possible.

2502.6 If an interested individual or family submits an application and completes a vulnerability assessment administered by the PSH Program, but is found not to be eligible, the Department or its designee shall provide the applicant with a Notice of Denial of Eligibility, which shall include:

- (a) A clear statement of the applicant's eligibility determination;
- (b) A clear and detailed statement of the factual basis of the denial, including a reference to the eligibility criteria set forth in subsection 2501.1 or 2502.1 that has not been met; and
- (c) A clear and complete statement of the client's right to appeal the denial of eligibility through a fair hearing and administrative review pursuant to D.C. Official Code §§ 4-754.41 and 4-754.42 respectively, including the appropriate deadlines for instituting the appeal and the procedural rights the applicant shall have during the appeals process.

2502.7 An individual or family that is found to be ineligible for the PSH Program may reapply at any time.

2503 PSH PROGRAM REFERRAL PROCESS

2503.1 When the Department or its designee has available placements in the PSH Program, the Department or its designee shall review all vulnerability assessments of individuals and families not previously placed in the PSH Program or other permanent supportive housing program to determine which individuals and families have priority for the available placements.

- 2503.2 Upon identifying those individuals and families with the highest vulnerability scores, the Department or its designee shall seek to locate the identified persons through service providers, outreach workers, Homeless Management Information System (HMIS) data, or other available means.
- 2503.3 Upon location of the persons identified pursuant to subsection 2503.2, the Department or its designee shall assign a case manager to the individual or family to assist in completing the placement.
- 2503.4 If the individual or family cannot be located, the Department or its designee shall document efforts to locate the person and shall retain the vulnerability assessment for a future PSH Program referral.
- 2503.5 If the Department or its designee identifies but is unable to locate the individual or family for two distinct referral groups, the Department or its designee shall remove the applicable vulnerability assessment from the pool of assessments available for referral.
- 2503.5 Any individual or family whose assessment is removed pursuant to subsection 2502.4 may retake a vulnerability assessment and be considered for available or future PSH referrals at any time.

2504 PSH PROGRAM ASSESSMENT AND CASE MANAGEMENT

- 2504.1 The PSH Program shall offer participants a comprehensive needs assessment and case management.
- 2504.2 Participants shall not be required to participate in the needs assessment or case management as a condition of receipt of the housing or rental assistance or other PSH services, except that the PSH Program may require reasonable minimal case management requirements as set forth in the PSH Program rules, in order to ensure the PSH Program provides reasonable oversight of its program and participants.

2505 PSH PROGRAM HOUSING OR RENTAL ASSISTANCE

- 2505.1 Subject to applicable income limitations or other eligibility requirements, an individual or family referred to the PSH Program shall be provided a housing or rental subsidy.
- 2505.2 The PSH Program shall, at its discretion, refer the individual or family to a housing or rental subsidy program based on preliminary eligibility screening of the individual or family, taking into account the availability of available slots in particular programs and, to the extent feasible, the individual's or family's preferences and needs.

- 2505.3 In determining the housing or rental subsidy program referral pursuant to subsection 2505.2, the Department or its designee shall first endeavor to place PSH Program participants in non-Department funded programs.
- 2505.4 Housing or rental subsidy programs to which an individual or family may be referred, subject to subsections 2505.2 and 2505.3, depending on availability of funding and placements, include:
- (a) The District of Columbia Housing Authority's (DCHA) Housing Choice Voucher Program's (HCVP) limited local preference for permanent supportive housing for chronically homeless individuals and families;
 - (b) Other available DCHA public housing or housing voucher programs, including the local rent supplement program;
 - (a) Other District funded housing or rental assistance programs; or
 - (b) Any other housing or rental assistance program.
- 2505.5 PSH Program participants receiving a DCHA voucher, public housing, or rental assistance shall follow the rules, policies, and procedures of the applicable DCHA program.
- 2505.6 PSH Program participants receiving a non-Department but District funded housing or rental subsidy shall follow the applicable rules of the District program.
- 2505.7 PSH Program participants receiving a Department funded housing or rental subsidy shall follow rules set forth in subsections 2506 through 2508 of this Chapter.

2506 THE DEPARTMENT'S HOUSING SUBSIDY PROGRAM FOR PSH PROGRAM PARTICIPANTS

- 2506.1 The Department's Housing Subsidy Program for PSH Program participants (PSH Housing Program) shall consist of rental and utility assistance (hereinafter "housing cost"), household housing cost contribution, unit identification assistance, and unit inspection.
- 2506.2 Each participant household shall contribute toward their housing cost in the amount of thirty percent (30%) of their adjusted annual income, as determined in accordance with the DCHA Housing Choice Voucher Program regulations found at 14 DCMR 6200.

- 2506.3 The PSH Housing Program shall pay the difference between the household's housing cost contribution and the cost of housing. For purposes of this section, the cost of housing shall include the cost of utilities, the relative share of which shall be determined as set forth in the DCHA Housing Choice Voucher Program regulations found at 14 DCMR 6200.
- 2506.4 To determine the individual's or family's housing cost contribution, the PSH Program participant may be required to provide or update the following information:
- (a) Employment status and history;
 - (b) Income and source of income, including public benefits;
 - (c) Assets; and
 - (d) Any other information relevant to determining security deposit, rental assistance, moving, move-in, or other applicable expenses needed to obtain housing.
- 2506.5 Upon completion of the household's housing contribution determination, the PSH Housing Program shall provide the household with a Notice of Housing Assistance Determination, which shall include:
- (a) A clear statement of the maximum rental costs for which the household qualifies pursuant to the United States Department of Housing and Urban Development (HUD) Fair Market Rent standards for their household size;
 - (b) A clear statement of the household's housing cost contribution for which they will be responsible and the computation of how the household's housing cost contribution was determined;
 - (c) A clear and detailed statement of the amount the PSH Housing Program shall provide in housing assistance;
 - (d) A clear and detailed statement of how the utilities will be paid, and any responsibility that the household will have for utilities; and
 - (e) A clear and complete statement of the household's right to appeal the determination of the household's housing cost contribution through a fair hearing and administrative review pursuant to D.C. Official Code §§ 4-754.41 and 4-754.42 respectively, including the appropriate deadlines for instituting the appeal and the procedural rights the applicant shall have during the appeals process.

2507 REPORTING CHANGE IN HOUSEHOLD INCOME

- 2507.1 It shall be the responsibility of each participating household to report to the PSH Program, in writing, any change in the household's annual income as soon as the change occurs.

2508 UNIT IDENTIFICATION

- 2508.1 Participants in the PSH Housing Program shall accept a unit that passes a housing inspection and meets Fair Market Rent standards established for the District of Columbia by HUD.
- 2508.2 A PSH Program participant shall be assigned one unit in the available unit inventory list. Participants may also find a unit of their choice, as long as such unit passes a housing inspection conducted by the PSH Program and does not exceed HUD Fair Market Rent standards for their household size.
- 2508.3 To facilitate timely unit identification and entry into the PSH Housing Program, the participant shall:
- (a) Make a reasonable effort to meet with the PSH Program's representative in a timely manner to view a unit;
 - (b) After viewing a unit, assist the PSH Housing Program to submit a timely and complete application to the landlord; and
 - (c) Accept a unit that meets the HUD Fair Market Rent standards for their household size.
- 2508.4 The PSH Housing Program shall assist any participant, at any time, to move to an alternate unit as long as the PSH Program or the participant is able to ensure that the participant:
- (a) Exits the existing lease or agreement with the landlord according to the terms of the lease or agreement or receives the landlord's written approval to exit the lease without financial cost to the Program;
 - (b) Identifies an alternate unit that passes a housing inspection and does not exceed the HUD Fair Market Rent standards for their household size;
 - (c) Submits an application to the landlord within the necessary timeframe; and

- (d) Accepts the alternate unit and provides the PSH Program with all necessary information regarding the new unit.

2508.5 If requested by the participant, the PSH Housing Program may assist the participant to identify an alternate unit that better meets the participant's needs, to the extent possible, considering the availability of units within the PSH Program housing inventory and considering the needs of new applicants.

2509 TRANSFER OF INDIVIDUALS AND FAMILIES IN SHELTER AND SUPPORTIVE HOUSING

2509.1 All providers are strongly encouraged to use transfer as the primary mechanism for assisting clients to find the most appropriate placement and services within the Continuum of Care, including making reasonable efforts to transfer a client prior to taking action to terminate services to a client.

2509.2 A provider may transfer a client to another provider to ensure the client receives the most appropriate services available within the Continuum of Care whenever:

- (a) The client consents to the transfer, including a transfer requested by the client; or
- (b) The provider identifies and secures for the client a placement with another provider that more appropriately meets the client's medical, mental health, behavioral, or rehabilitative service needs in accordance with the client's service plan.
- (c) A more appropriate placement may include transfer to the same or different level of service or type of program based on the circumstances upon which the transfer is based, including a transfer when the facility or program in which the client is currently receiving services is ending operations.

2509.3 In addition to the provisions for transfer in 2509.2, a provider may transfer a client when a client fails or refuses to comply with the provider's Program Rules and the client responsibilities set forth in D.C. Official Code § 4-754.13, or engages in any of the behaviors listed in D.C. Official Code § 4-754.36; provided, that:

- (a) The client has received proper notice of the approved Program Rules as required by D.C. Official Code § 4-754.33(a) and (b)); and

- (b) The provider has made a good-faith effort to enable the client to comply with the Program Rules so that the client is able to continue receiving services without a transfer.

2509.4 To ensure that low barrier shelters may receive a transferring client pursuant to 2509.2 and 2509.3, a provider of a low barrier shelter may agree to guarantee a bed for a client for up to two weeks. The decision whether or not to provide a guarantee for a transfer, and for what period of time, shall be at the discretion of the provider. For purposes of this subsection, to guarantee a bed at a low barrier shelter means:

- (a) The provider shall hold a bed for the transferee each night for up to two weeks following the effective date of the transfer;
- (b) Each night when a bed is to be guaranteed, the provider shall hold a bed for the transferee for a minimum of two hours beyond the end of the shelter's intake period;
- (c) If the transferee has not arrived at the shelter at least two hours beyond the end of the shelter's intake period the provider may give the held bed to another client who needs a bed; and
- (d) If the transferee does not stay at the shelter for three consecutive nights without prior approval from the provider, the provider is under no obligation to continue to hold the bed for the remainder of the original two-week period.

2509.5 For purposes of subsection 2509.2(b), a provider has secured a placement in a low barrier shelter when the low barrier shelter provider has agreed to guarantee a bed for the transferring client for up to two weeks, pursuant to subsection 2509.4.

2509.6 When a low barrier shelter program is closing, to facilitate the program closure and minimize the impact on those residents who are most reliant on that program, the low barrier program may transfer clients to other shelter or supportive housing programs, including low barrier shelters, giving priority to those persons who have the highest utilization rate over the past three months prior to transfer and taking steps to ensure that the large majority of beds in other low barrier shelter programs remain available on a first-come, first serve basis.

2599 DEFINITIONS

2599.1 For the purposes of this Chapter, the following terms shall have the meanings ascribed:

Act – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code 4-751.01 *et seq*).

Client – an individual or family seeking, receiving, or eligible for services from a program within the Continuum of Care offered by the District of Columbia under the Act or by a provider receiving funding for the program from either the District of Columbia or the federal government, if such funds are administered, whether by grant, contract, or other means, by the Department of Human Services or its designee.

Continuum of Care – a comprehensive system of services for individuals and families who are homeless or at imminent risk of becoming homeless that is designed to serve clients based on their individual level of need. The Continuum of Care may include crisis intervention, outreach and assessment services, shelter, transitional housing, permanent supportive housing, and supportive services.

Department – the Department of Human Services.

District – the District of Columbia government, its agents, or its designees.

Family – either of the following:

- (a) A group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit; or
- (b) A pregnant woman in her third trimester.

Homeless – either of the following:

- (a) Lacking a fixed, regular residence that provides safe housing, and lacking the financial means to acquire such a residence immediately; or
- (b) Having a primary nighttime residence that is:
 - (1) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or
 - (2) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Hyperthermia shelter – a public or private building that the District makes available, for the purpose of providing shelter to individuals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature or heat index rises above ninety-five (95) degrees Fahrenheit. The term “hyperthermia shelter” does not include overnight shelter.

Hypothermia shelter – a public or private building that the District makes available, for the purpose of providing shelter to individuals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature, including the wind chill factor, falls below thirty-two (32) degrees Fahrenheit.

Imminent risk of becoming homeless – the likelihood that an individual's or family's circumstances will cause the individual or family to become homeless in the absence of prompt government intervention.

Low barrier shelter – an overnight housing accommodation for individuals who are homeless, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter to individuals without imposition of identification, time limits, or other program requirements.

Permanent supportive housing – supportive housing for an unrestricted period of time for individuals and families who were once homeless and continue to be at imminent risk of becoming homeless, including persons with disabilities as defined in 24 C.F.R. § 582.5, for whom self-sufficient living may be unlikely and whose care can be supported through public funds.

Program Rules – the set of provider rules, client rights, and complaint and appeal procedures that have been proposed by a particular provider and approved by the Mayor, for the purpose of governing the behavior and treatment of clients.

Provider – an individual or entity within the Continuum of Care that operates a program covered by the Act.

Safe housing – housing that does not jeopardize the health, safety, or welfare of its occupants and that permits access to electricity, heat, and running water for the benefit of occupants.

Severe weather shelter – a hyperthermia shelter or hypothermia shelter.

Shelter – severe weather shelter, low barrier shelter and temporary shelter.

Supportive services – services addressing employment, physical health, mental health, alcohol and other substance abuse recovery, child care, transportation, case management, and other health and social service needs which, if unmet, may be barriers to obtaining or maintaining permanent housing.

Temporary shelter – each of the following:

- (a) A housing accommodation for individuals who are homeless that is open either twenty-four (24) hours or at least twelve (12) hours each day, other than a severe weather shelter or a low barrier shelter, provided directly by, or through contract

with or grant from, the District, for the purpose of providing shelter and supportive services; or

- (b) A twenty-four (24) hour apartment style housing accommodation for individuals or families who are homeless, other than a severe weather shelter, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter and supportive services.

Transitional housing – a twenty-four (24) hour housing accommodation provided directly by, or through contract with or grant from, the District, for individuals and families who:

- (a) Are homeless;
- (b) Require a structured program of supportive services for up to two (2) years or as long as necessary in order to prepare for self-sufficient living in permanent housing; and
- (3) Consent to a case management plan developed collaboratively with the provider.

Persons who wish to comment on these proposed rules may do so in writing for no less than forty-five (45) days after the publication of this notice in the *D.C. Register*. Comments should be forwarded to Fred Swan, Administrator, Family Services Administration, 2146 24th Place, N.E., Washington, D.C. 20018. Copies of these rules may be obtained by requesting them in writing or in person at above address.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2008 Supp.), hereby gives notice of the adoption, on an emergency basis, of rules to amend Chapter 20 of Title 5 of the District of Columbia Municipal Regulations (DCMR). The purpose of the rulemaking is to repeal section 2003 entitled “Immunization Requirements,” and Section 917 of Title 5 of the DCMR, entitled “Registration-Immunization Requirements,” and add a new Chapter 53, within Title 5 of the DCMR, entitled “Public School Immunization Procedures and Requirements” applicable to District of Columbia Public Schools including District of Columbia Public Charter Schools. This action is part of the District’s ongoing revision of Title 5 of the DCMR.

Emergency action is necessary for the health and well being of students attending public schools. These regulations also seek to prevent confusion and assist parents, guardians, and school officials with regard to school enrollment and immunization certification. These regulations conform immunization requirements to recent District of Columbia Department of Health mandates, and establish a uniform process for parents, guardians and school officials in the District’s public schools. Recently, the District of Columbia Department of Health, in conformance with the Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*), adopted revisions to Title 22, Chapter 1, Sections 22-129 through Section 22-199 published at 55 DCR 5253 (May 2, 2008).

The State Superintendent of Education took action to adopt this emergency regulation on August 7, 2008, and the new Chapter 53, of Title 5, became effective immediately. This emergency rule will remain in effect for up to one hundred twenty (120) days, unless superseded by a notice of final rulemaking prior to that time.

The State Superintendent of Education also gives notice of her intent to take final rulemaking action in not less than 30 days from the date of publication of this notice in the *D.C. Register*.

Title 5 (EDUCATION) (December 2002) of the District of Columbia Municipal Regulations are amended as follows:

Amend the description for section 917 in the table of contents for Chapter 9, Title 5 to read as follows:

917 Repealed

Amend the description for section 2003 in the table of contents for Chapter 20 to read as follows:

2003 Repealed

Add at the end of the table of contents the following:

CHAPTER 53 PUBLIC SCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**Section**

5300 Public School Immunization Procedures and Requirements

Amend section 917 to read as follows:

917 Repealed

Amend section 2003 to read as follows:

2003 Repealed

Add a new Chapter 53 to read as follows:

CHAPTER 53 PUBLIC SCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**5300 PUBLIC SCHOOL IMMUNIZATION PROCEDURES AND REQUIREMENTS**

5300.1. The Office of the State Superintendent of Education in cooperation with District of Columbia Public Schools, District of Columbia Public Charter Schools and the District of Columbia Department of Health, shall enforce immunization requirements for public school admission, as set forth in this chapter.

5300.2. Each student attending a public school shall be required to present valid written immunization certification documenting that the student has been successfully immunized in accordance with current Department of Health immunization requirements.

5300.3. All immunization requirements shall be established by the Department of Health, and distributed by the public schools, including as appropriate, advice published by public health officials and the Advisory Committee on Immunization Practices also often referred to as the ACIP.

5300.4. School officials shall maintain documentary proof of each student's

immunization certification, recorded in the student's permanent school record. Compliance with the immunization requirements shall be verified by the appropriate school officials at the following times:

- (a) All students upon entry into Kindergarten;
- (b) All students entering first grade;
- (c) All students upon entry into sixth Grade;
- (d) All students upon entry into Ninth Grade;
- (e) All students upon initial enrollment into any school; and
- (f) Any student upon reenrollment into any school, after more than one year's absence from that school.

5300.5. A student who has been admitted to a public school and is subsequently discovered not to have all requisite immunizations, or a student who has not been immunized in accordance with the Department of Health requirements, must be notified in writing immediately, that within ten (10) school days from the date of the written notification specified in § 5300.6(a), the student shall obtain and present certification that the required immunization has been completed; or is proceeding in accordance with the Department of Health immunization requirements, taking into account as appropriate recommendations of public health officials and the Advisory Committee on Immunization Practices.

5300.6. When school officials determine that a student is not currently immunized, the school shall immediately:

- (a) Notify the parent, guardian, or adult student in writing, including notice of the immunization requirements with copies of the appropriate forms;
- (b) Notify the Department of Health or other designated authority of the name and address of the student and of the immunization(s) that the student lacks; and
- (c) Provide information to the student's parent, guardian, or adult student with the cooperation of the Department of Health, for obtaining the required immunization(s), including times and locations.

- 5300.7. The public schools shall prohibit from further attendance any student who fails to obtain or maintain the required conditions and immunization in accordance with §5300.5.
- 5300.8. If the required immunization necessitates continuing treatment or a series of treatments, the student shall be allowed to attend school while the treatment is being received under the following conditions:
- (a) The student presents written notification from the attending physician or from public health authorities that attendance is appropriate and treatment is in progress;
 - (b) Written certification of immunization shall be submitted upon completion of treatment; and
 - (c) The immunization record of each student admitted conditionally shall be reviewed periodically to confirm and update documentation of subsequent immunizations required to ensure the student is fully immunized within the time periods designated by the Department of Health and this Chapter.
- 5300.9. Immunization records forwarded from a student's previous school that contain all of the immunization information required may be accepted by the principal or other appropriate school official in lieu of new certification of immunization data.
- 5300.10. When a school has a reasonable basis to believe that a student who is not fully immunized against a specific communicable disease, may have been exposed to that disease, the school shall immediately report the information to the Department of Health and discuss with the appropriate official at the Department of Health whether the student is at risk of developing the disease and whether the student should be excluded from attending school until completion of the incubation period or during the period that the disease is considered communicable.
- 5300.11. The immunization requirements subject to this Chapter, shall not apply to any student whose parent or guardian objects in writing to the immunization on grounds that the medical treatment or medical test is forbidden by their religion or religious beliefs and practices.
- 5300.12. Any immunization or medical tests subject to this Chapter, shall be waived for a student upon submission of written certification by a physician, his/her representative, by a public health authority, or by public immunization records from a previous school.

5300.13. School authorities may exclude from regular instruction a student who is not immunized and provide for special instruction for the student

5300.99 Definitions:

Immunization or Immunization requirements --the initial immunization and any additional re immunization required to maintain immunization.

Public School--the District of Columbia Public Schools or a District of Columbia Public Charter School or program sponsored by these schools.

OSSE-- the Office of the State Superintendent of Education.

Certificate or certification of immunization—means certification by a physician, his/her representative, by a public health authority, or by public immunization records from a previous school.

Religion or religious belief --any system of beliefs, practices or ethical values.

Persons wishing to comment on this rule should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Beth Colleye. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of this rulemaking and related information may be obtained from the OSSE website at www.osse.dc.gov or upon request at the above referenced location.